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AN ACT to amend Chapter 87 of the Private Acts of 1985, relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for consideration within the city of Germantown, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Article X of Chapter 87 of the Private Acts of 1985, and all other acts amendatory thereto, the same being the charter of the City of Germantown, Tennessee, is amended by adding Sections 2 through 12 of this act as a new Section 10.07.

SECTION 2. As used in this act unless the context otherwise requires:

(1) "City" means the City of Germantown, Tennessee.

(2) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(3) "Finance Director" means the Finance Director of the City of Germantown, Tennessee.

(4) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 3. The legislative body of the city of Germantown is authorized to levy by ordinance and collect a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount to be set by ordinance by the City of Germantown, of up to five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this act.

SECTION 4. (a) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy in the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the city.

(b) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him or her, and the operator shall receive credit for the amount of such tax if previously paid or reported to the City of Germantown.

SECTION 5. (a) The tax hereby levied shall be remitted to the Finance Director or his designee by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the city which Finance Director shall be charged by ordinance of the City with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for and remitting the tax authorized and levied pursuant hereto and the related ordinances of the City, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the City in the form of a deduction in submitting his or her report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The Finance Director shall be responsible for the collection of such tax and shall place the proceeds of such tax in such accounts as provided in the ordinance of the City adopted under the authority hereof. A monthly tax return under oath shall be filed with the Finance Director by the operator with such number of copies thereof as the Finance Director may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the Finance Director and approved by the Board

of Mayor and Aldermen of the City prior to use. The Finance Director shall cause an audit of each operator in the city at least once per year and shall report on the audits made to the Board of Mayor and Aldermen of the City. The Board of Mayor and Aldermen is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the Finance Director on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful failure or refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of five hundred dollars (\$500.00). In addition, it is unlawful for any operator to knowingly file a false tax return and a violation shall be punishable by a civil penalty of not more than five hundred dollars (\$500.00).

SECTION 9. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which he or she may have been liable for the collection of and payment to the city, which records the Finance Director, his designee or any accounting firm or accountant employed by the City, shall have the right to inspect at all reasonable times.

SECTION 10. (a) The Finance Director in administering and enforcing the provisions of this act and any ordinance adopted pursuant hereto shall have as additional powers, those

powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67 or otherwise provided by law for the county clerks and/or municipal officers.

(b) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, Chapter 23, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to taxes illegally assessed and collected under the authority of this act. The Finance Director shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

(c) With respect to the adjustment and settlement with taxpayers all errors of taxes collected by the Finance Director under authority of this act shall be refunded by the city.

(d) Notice of any tax paid under protest shall be given to the Finance Director and the ordinance authorizing levy of the tax shall designate a municipal officer against whom suit may be brought for recovery.

SECTION 11. The proceeds the tax authorized by this act shall be allocated to such funds as the Board of Mayor and Aldermen of the City shall direct.

SECTION 12. The provisions of this act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of the act shall continue to be in full force and effect, it being the legislative intent now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Germantown, Tennessee. Its approval or nonapproval shall be proclaimed by the Mayor and certified by the Mayor of the City to the Secretary of State.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided in Section 13.